

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015080855

ORDER CONTINUING PREHEARING
CONFERENCE AND DENYING
REQUEST TO CONTINUE HEARING

This matter was filed by Student against Los Angeles Unified School District on August 19, 2015, and initially set for due process hearing on October 13, 2015. On September 21, 2015, the Office of Administrative Hearings granted the joint request of the parties to continue the mediation, prehearing conference, and hearing dates in this matter. The prehearing conference was continued to December 4, 2015 and the hearing to December 14-17, 2015.

On November 25, 2015, the parties filed a joint request for a second continuance in this matter, requesting that OAH continue the PHC to February 5, 2016, and the hearing to February 15-18, 2016. The request was made on grounds that District has recently engaged its present counsel, and the parties are completing negotiation of a settlement agreement

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. Student's complaint, filed at the start of the 2015-2016 school year, seeks immediate relief allegedly necessary for Student to receive a free appropriate public education for the 2015-2016 school year, including a change of placement, implementation of services offered in Student's most recent individualized education program, additional services not offered in Student's most recent IEP, and identification of the provider of behavior intervention implementation and development services for Student. The interests of justice would not be served by a second continuance that would delay the requested relief for a further two months if Student were to prevail on her claims. However, a short continuance of the prehearing conference will be granted to give the parties an additional working day to devote to settlement negotiations.

The request for continuance is:

Granted in part, and denied in part. The prehearing conference date, only, is vacated. The prehearing conference will be continued, and the matter shall proceed, as follows:

Telephonic Prehearing Conference:

Date: December 7, 2015
Time: 3:00 p.m.
Each party will file and serve its prehearing conference statement on or before December 2, 2015 at 5:00 p.m.

Due Process Hearing (Dates Remain Unchanged):

Date: December 14-17, 2015, commencing at 1:30 p.m. on December 14, 2015, and at 9:00 a.m. each additional day, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.
Place: Office of Administrative Hearings
15350 Sherman Way, Suite 300
Van Nuys, CA 91406

IT IS SO ORDERED.

DATE: November 25, 2015

/s/

ROBERT MARTIN
Administrative Law Judge
Office of Administrative Hearings